

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JULIANNA MARIE LEWIS,

Plaintiff,

Case No. 3:18-cv-00184-MK
ORDER AND OPINION

vs.

RICHARD IVES; Warden FCI Sheridan;
Mary M. Mitchell, BOP Regional
Director, UNITED STATES OF AMERICA,
UNITED STATES BUREAU OF PRISONS,
AND DOES 1-10,

Defendants.

AIKEN, District Judge:

Magistrate Judge Mustafa Kasubhai has filed his Findings and Recommendation (“F&R”) (doc. 69) recommending that defendants’ Motion for to Dismiss be GRANTED in part and DENIED in part. This case is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's F&R, the district court must make a *de novo* determination of that portion of the magistrate judge's report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982). Defendants have filed timely objections (doc. 71), and plaintiff has filed a timely response. (doc. 72). Thus, I review the F&R *de novo*.

The Court has reviewed the objections and response and finds no error in Judge Kasubhai's analysis. Thus, the Court adopts Magistrate Judge Kasubhai's F&R (doc. 69) in its entirety. Accordingly, defendants' Motion to Dismiss (doc. 49) is GRANTED in part and DENIED in part. Plaintiff's Fifth Amendment *Bivens* claim for damages, her Affordable Care Act claim against BOP and the United States, and her Federal Torts Claim Act claim are dismissed with prejudice. Plaintiff's Administrative Procedures Act claim is dismissed without prejudice. Defendants' motion is denied in all other respects.

IT IS SO ORDERED.

Dated this 27th day of May, 2020.

/s/Ann Aiken
Ann Aiken
United States District Judge